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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/760,015

01/16/2004

Ryan D. McMurtrey

B-347

8514

7590

10/10/2006

Stephen R. Christian

BBWI

PO BOX 1625

IDAHO FALLS, ID 83415-3899

EXAMINER

KRISHNAMURTHY, RAMESH

ART UNIT

PAPER NUMBER

3753

DATE MAILED: 10/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/760,015

Applicant(s)

MCMURTREY ET AL.

Examiner

Ramesh Krishnamurthy

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 53 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 - 53 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3753

This office action is responsive to communications filed 07/24/2006.

Claims 1 – 53 are pending.

1. The indicated allowability of claims 1 - 53 is withdrawn in view of the newly discovered reference(s) to Stanford (US 429,658). Rejections based on the newly cited reference(s) follow.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1 – 40 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation “ a valve seat ” in line 4 that is a double inclusion of the valve seat recited in line 3. Similarly, claim 19 recites the limitation “ a valve seat ” in line 7 that is a double inclusion of the valve seat recited in line 6.

Claims 16 and 37 recite the limitation “to have a flow coefficient of approximately 0.004 C_v. This limitation is confusing in that the term C_v by itself denotes the flow coefficient so that the recited limitation essentially does not define a specific value of the flow coefficient at all.

Claims 21 and 31 – 33 recite the limitation “the linear positioning actuator” that lacks sufficient antecedent basis in the claim.

Claim 39 recites the limitation “the worm gear” in line 1 that lacks sufficient antecedent basis in the claim.

Art Unit: 3753

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 – 4, 14 – 20, 36 – 43, 49 – 53 are rejected under 35 U.S.C. 102(b) as being anticipated by Stanford (US 429,658).

Stanford discloses (see Figs. 1 – 2, for example) a fluid flow control system comprising: a controller (i.e. operator that operates the linear positioning member (k)); at least one fluid flow control device (Fig. 1) operably coupled with the controller, the at least one fluid flow control device comprising: a valve having a fluid inlet (a'), a fluid outlet (d) and a flow path defined therebetween, the valve further including a valve seat (near (b)) in communication with the flow path and a valve stem (c') disposed within a valve seat and cooperatively configured with the valve seat to cause the valve stem to advance or back off within the valve seat responsive to rotation of the valve stem about a first axis; a gear member (g) coupled to the valve stem; and a linear positioning member (k) having at least a portion thereof configured to complementarily engage the gear member, wherein the linear positioning member is configured to be displaced along a second axis and cause rotation of the gear member and the valve stem about the first axis upon such displacement of the linear positioning member along the second axis. It is further noted that the gear member and worm gear in Stanford comprises metal which here is taken to include all known metals including the both carbon steel and brass. Regarding the limitations recited in claims 15 – 17, 36 – 38 and 49 – 52 are

Art Unit: 3753

essentially functional in nature that largely reflect the intended use of the apparatus and the apparatus of Stanford as set forth above is capable of such use and meeting the functional limitations referred to hereinabove.

It is noted that the arrangement disclosed in Stanford necessarily performs the method recited in claims 41 – 43 and 49 – 53 in its usual and normal operation.

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 5 – 13, 31 – 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stanford as applied to claims 1 – 4, 14 – 20, 36 – 43, 49 – 53 above, and further in view of Grouw, III (US 4,759,386).

The patent to Stanford discloses the claimed invention with the exception of explicitly disclosing the linear positioning actuator to include a motor.

Grouw, III discloses a motor (28) for positioning a linear actuating member (20) associated with a valve for the purpose of accurate automated operation of the member.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided in Stanford a motor for actuating the linear actuating member for the purpose of accurate automated operation of the member, as evident from Grouw, III. It is noted that the motor in Grouw, III is applicable to all known types of motor (see claim 1, for example) including the well-known stepper motor. Limit switches (98, 100) for limiting the travel of the linear positioning member (20) are disclosed. Also disclosed is potentiometer position sensor (76) for sensing the position of the linear positioning member (20) (see Col. 3, lines 40 – 48).

9. Claims 21 – 27 and 44 – 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stanford as applied to claims 1 – 4, 14 – 20, 36 – 43, 49 – 53 above, and further in view of Shimomura et al. (US 5,129,418).

The patent to Stanford discloses the claimed invention with the exception of explicitly disclosing the controller to comprise a P.I.D. controller and/or sensors operably connected to the controller.

The patent to Shimomura et al. discloses that it is known in the art to employ a P.I.D. controller and/or sensors operably connected to the controller for the purpose of automatically controlling the flow based on desired sensed parameter values.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided in the device of Stanford a controller that comprises a P.I.D. controller and/or sensors operably connected to the controller for the

Art Unit: 3753

purpose of automatically controlling the flow based on desired sensed parameter values, as recognized by Shimomura et al..

10. Claims 28 - 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stanford as applied to claims 1 - 4, 14 - 20, 36 - 43, 49 - 53 above, and further in view Weissgerber et al. (US 6,712,085).

The patent to Stanford discloses the claimed invention with the exception of explicitly disclosing a pump that is configured to provide a supply of flow through the valve.

Weissgerber et al. discloses a fluid flow system wherein a pump (21) is operably connected to a controller (27) that controls the pump for providing a desired fluid through the system.

It would have been obvious to one ordinary skill in the art at the time the invention was made to have provided in the arrangement of Stanford a pump that is configured to provide a supply of flow through the valve, for the purpose of providing a controlled fluid flow therethrough, as recognized by Weissgerber et al..

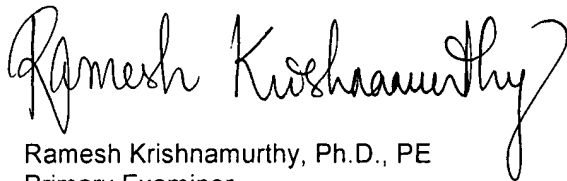
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh Krishnamurthy whose telephone number is (571) 272 - 4914. The examiner can normally be reached on Monday - Friday from 10:00 AM to 6:30 PM.

Art Unit: 3753

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Keasel, can be reached on (571) 272 – 4929. The fax phone number for the organization where this application or proceeding is assigned is (571) 273 – 8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, reading "Ramesh Krishnamurthy". The signature is fluid and cursive, with the first name "Ramesh" and last name "Krishnamurthy" clearly distinguishable.

Ramesh Krishnamurthy, Ph.D., PE
Primary Examiner
Art Unit 3753